

Let's talk about PEPs: an Arachnys briefing note on political exposure

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Banks and other financial institutions are [rapidly expanding their activities](#) around screening third parties for political exposure. In light of this, we have put together this briefing note to look at the definition of 'Politically Exposed Person' (PEP) and address some of the complications around building and using PEP screening lists, and how these relate to anti-money laundering (AML) and anti-bribery regulations.

Scroll down to read our convenient cheat sheet of how PEPs are defined in five prominent examples of active legislation around the world; and a look at the distribution of elected officials worldwide.

There is no canonical definition of a PEP

- The [guidelines published by the Financial Action Task Force](#) (FATF) are a highly influential source in determining which classes of individuals require enhanced due diligence processes;
- The set of designated individuals in enforceable AML and anti-bribery legislation varies significantly from country to country; often terms other than 'politically exposed person' is used in this legislation
- The Foreign Corrupt Practices Act, a key regulation for compliance professionals worldwide, uses the term 'foreign official' rather than 'politically exposed person'.

PEP screening is required by a range of anti-bribery and AML regulations

Regulation	Year	Jurisdiction	Summary of relevant section
FCPA	1977	USA	The FCPA makes it unlawful to give or promise anything of value to a foreign official for the purpose of influencing any act or decision of the official in their official capacity.
US Patriot Act	2001	USA	Financial institutions are required to conduct enhanced scrutiny of accounts of any senior foreign political figure, their immediate family or close associates.
EU AML Directive	2005 (version 4 in draft)	EU	The directive requires financial entities to implement 'appropriate risk-based procedures' to determine whether customers are politically exposed persons, to require senior management approval for business relationships with PEPs and to take additional measures to determine sources of funds.
UK Bribery Act (sec. 6)	2010	UK	Section 6 of the act makes it an offence to make payment to a foreign public official in order to influence that official and obtain or retain a business advantage.

AMLO-
FINMA

2010

Switzerland

Requires financial institutions to treat business relationships with PEPs as 'higher risk', to have enhanced due diligence measures in place for such relationships and for senior executives to review such relationships on an annual basis.

Overview of designated entities under each regulation

Designated by regulation?	FCPA	Patriot Act	EU AML directive	UK Bribery Act sec 6	AMLO-FINMA
term used	"foreign official"	"senior foreign political figure"	"politically exposed person"	"foreign public official"	"politically exposed person"
head of state	yes	yes	yes	yes	yes
ministers, junior ministers	yes	yes	yes	yes	yes
elected national representative	yes	maybe	yes	yes	maybe
elected local representative	yes	no	probably	yes	no
official of political party	yes	maybe, if senior	no	no	maybe, if senior
political candidate	yes	maybe, if senior	no	no	maybe, if senior
ordinary member of political party	no	no	no	no	no
senior figure in state owned enterprise	yes	no	yes	yes	yes, if enterprise of 'national importance'
middle-ranking official in state-owned enterprise	yes	no	no	yes	no
ambassador	yes	yes	yes	yes	yes
embassy staff	yes	no	maybe, if senior	yes	no
senior member of judiciary	yes	maybe	yes	yes	yes
lower member of	yes	no	no	yes	no

judiciary					
professor in a state university	probably	no	maybe, if senior	maybe	no
also includes:					
close family of above	no*	yes	yes	no*	yes
business partners of above	no*	any close associate	yes	no*	yes
inc 18 months after leaving office?	no	no	yes	no	no

[Download this table as a printable PDF cheatsheet.](#)

Designations are highly variable under different sets of legislation

- The anti-bribery provisions in the FCPA and UK Bribery Act encompass a much larger range of officials than the enhanced due diligence provisions in the Patriot Act, EU AML Directive or AMLO-FINMA;
- Specifically, the above two sets of legislation apply to junior and mid-rank officials in state organs and enterprises as well as senior officials; these are excluded from the EU and Swiss regulations;
- While all legislation applies to senior politicians, the Patriot Act and AMLO-FINMA do not include national representatives unless they are sufficiently senior;
- The FCPA is the only legislation which explicitly mentions candidates for political office;
- Membership of a political party does not constitute being a politically exposed person under any of the main anticorruption regulations;
- Neither the FCPA nor UK Bribery Act explicitly prohibit payments to the family or business associates of public officials, though payments through a third party may not be made in order to influence an otherwise designated individual;
- Under the draft EU AML Directive, PEPs remain politically exposed for a minimum of 18 months after leaving office.

Numbers of PEPs worldwide

- Worldwide there are around 46,882 elected or appointed political representatives at a national level (see map below) – together, these would be a bare minimum workable list for PEP screening;
- We estimate that a list including all of the above categories as well as close family and business associates would require somewhere in the low tens of millions of entities.

World map showing global numbers of national-level political representatives

Tech solutions

- There are several all-in-one database solutions for PEP screening on the market, which form a useful part of a complete PEP-screening process,
- Discussions with our clients have reinforced to us the sense that building an accurate and comprehensive list is a challenge that is still to be convincingly met: databases frequently do not include individuals who are politically exposed and sometimes those who do not fit any of the above profiles find themselves listed;

- Consequently, overdependence on these solutions exposes companies to risk if the list is not fully up to date, and especially if it cannot be verified against official sources;

Arachnys is currently working on a solution to leverage our open data expertise to help customers to better identify PEPs worldwide, in multiple languages. We would welcome our existing and prospective clients getting in contact with us to outline any specific needs in this area.